

REMARKS/ARGUMENTS

The Office Action dated February 9, 2005, has been received and carefully considered, and in view of the foregoing amendments and following remarks, reconsideration and allowance of all of the claims pending in the application are respectfully requested.

Drawings/Specification

The Office Action objects to the drawings as not mentioning elements 80 and 20. The Office Action also objects to Figure 3 as not showing elements 200 and 102. In response, Applicant submits replacement paragraphs to provide description for elements 80 and 20. In addition, Applicant submits replacement drawings, as suggested by the Office Action. Accordingly, Applicant respectfully submits that the objection to the drawings should be withdrawn.

Specification

The Abstract has been amended as suggested by the Office Action.

Rejections Under 35 U.S.C. § 102

Claims 1, 5-8, 10, 13, 15, 19-22, 24, 27, 29 and 33-39 are currently rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 5,559,496 to Dubats ("Dubats"). The Office Action alleges that Dubats discloses each and every claim limitation. Applicant respectfully disagrees.

Dubats appears to disclose a remote patrol system. The system of Dubats detects intrusions of nontransparent objects which interrupt energy projections, records and stores data on certain characteristics of the intrusion(s) and transmits such data to a base station through a communication link. The system of Dubats estimates approximate size, speed and directional characteristics of intruding object(s) with an expert system. Therefore, the intrusion detection system of Dubats is based on energy projection. (Abstract). In contrast, the claimed embodiment of Applicant recites "detecting means for detecting the presence of an intruder in a predetermined area or a plurality of predetermined areas;" and "communicating means for *communicating via satellite signals to a processing center* the detection of the presence of the intruder in the predetermined area or in one or more of the plurality of predetermined areas;" *"wherein the satellite signals encode data alerting the processing center to the presence of said intruder in said predetermined area or said one or more of the plurality of predetermined areas."* Unlike the energy projection based detection system of Dubats, an embodiment of the

claimed invention disclose that the *satellite signals encode data alerting the processing center*. For this limitation, the Office Action relies upon column 6, lines 1-13 of Dubats that discusses transmitting data or modulated data depending on the nature of the communication link. However, the disclosure relied upon by the Office Action fails to show the claim limitation directed to satellite signals encoding data alerting the processing center. At this limitation is completely missing from the Dubats reference.

For a proper rejection under 35 U.S.C. § 102(b), each and every claim limitation must be shown in a single reference. The Office Action has failed to meet this requirement and thus the rejection is unsupported and should be withdrawn. Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. In addition, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. In this case, as discussed in detail above, the Office Action has failed to show that Dubats discloses each and every claim limitation recited by Applicants. Therefore, the Office Action has failed to meet its burden. The remaining claims are rejected on the Dubats reference. For at least the reasons stated above, these claims are improperly rejected and should be allowed accordingly. Therefore, the rejection of claims 1, 5-8, 10, 13, 15, 19-22, 24, 27, 29 and 33-39 under 35 U.S.C. § 102(b) should be withdrawn and the claims allowed accordingly.

Rejections Under 35 U.S.C. § 103

Claims 2, 16 and 30 are currently rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Dubats in view of U.S. Patent No. 6,658,463 to Dillon. Claims 3, 4, 17, 18, 31 and 32 are being allegedly unpatentable over Dubats in view of U.S. Patent No. 6,643,510 to Taylor. Claims 9 and 23 are being allegedly unpatentable over Dubats in view of U.S. Patent No. 6,764,261 to Stadler. Claims 11 and 25 are being allegedly unpatentable over Dubats in view of U.S. Patent No. 6,614,884 to Jang. Claims 12, 14, 26 and 28 are being allegedly unpatentable over Dubats in view of U.S. Patent No. 6,577,234 to Dohrmann.

As to claims 2, 16 and 30, the Office Action admits that Dubats fails to disclose “wherein the communicating means comprises a satellite return channel.” For this major deficiency, the Office Action relies upon Dillon’s satellite multicast proxy to teach the missing limitations. The Office Action summarily concludes that “it would have been obvious to one of the ordinary skill

in the art at the time of the invention to modify the device disclosed by Dubats according to the teachings of Dillon to use a satellite return channel to accomplish the two-way communication.” (see page 14, Office Action mailed February 9, 2005). Applicant respectfully disagrees. The motivation relied upon by the Office Action fails to consider how the system of Dubats could be reasonably modified based on the alleged teaching. The Office Action fails to provide a proper statement of motivation as to why one of ordinary skill in the art would severely modify Dubats that admittedly shows only one-way communication to accomplish two-way communication. The Dillon reference fails to teach the admitted deficiencies of Dubats. The Office Action’s statement of motivation is not based on any teaching but rather is a clear example of improper hindsight.

As to claims 3, 4, 17, 18, 31 and 32, the Office Action admits that Dubats fails to disclose “wherein the satellite signals are transmitted at a DBS frequency” and “wherein the satellite signals are transmitted at a FSS frequency.” For these major deficiencies, the Office Action relies upon Taylor’s mobile platform to teach the missing limitations. The Office Action summarily concludes that “it would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the device disclosed by Dubats according to the teachings of Taylor to set up the satellite signals to operate in the DBS frequency range.” (see page 14, Office Action mailed February 9, 2005). In addition, The Office Action summarily concludes that “it would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the device disclosed by Dubats according to the teachings of Taylor to set up the satellite signals to operate in the FSS frequency range.” (see page 15, Office Action mailed February 9, 2005). Applicant respectfully disagrees. The motivation relied upon by the Office Action fails to consider how the system of Dubats could be reasonably modified based on the alleged teaching. The Office Action fails to provide a proper statement of motivation as to why one of ordinary skill in the art would severely modify Dubats to operate in a range that is not disclosed in Dubats, namely the DBS and FSS frequency range. The Taylor reference fails to teach the admitted deficiencies of Dubats. Further, there would be no motivation available to one of ordinary skill in the art at the time of the invention to combine the system of Dubats with Taylor, absent improper hindsight.

As to claims 9 and 23, the Office Action admits that Dubats fails to disclose “wherein the detection of the intruder interrupts the transmission of satellite signals.” For this major deficiency, the Office Action relies upon Stadler’s catch basin and manhole covers to teach the missing limitations. The Office Action summarily concludes that “it would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the device disclosed by Dubats according to the teachings of Stadler to alter the reporting mode so that detection of intrusion would stop the transmission of satellite signals.” (see page 16, Office Action mailed February 9, 2005). Applicant respectfully disagrees. The motivation relied upon by the Office Action fails to consider how the system of Dubats could be reasonably modified based on the alleged teaching. The Office Action fails to provide a proper statement of motivation as to why one of ordinary skill in the art would severely modify Dubats to accommodate the alleged teachings of Stadler. The Stadler reference fails to teach the admitted deficiencies of Dubats. Further, there would be no motivation available to one of ordinary skill in the art at the time of the invention to combine the system of Dubats with Stadler, absent improper hindsight.

As to claims 11 and 25, the Office Action admits that Dubats fails to disclose “wherein the frequency of the satellite signals corresponds to a predetermined security condition.” For this major deficiency, the Office Action relies upon Jang’s automatic home alarm system and method to teach the missing limitations. The Office Action summarily concludes that “it would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the device disclosed by Dubats according to the teachings of Jang to assign each particular monitored area a particular frequency.” (see page 17, Office Action mailed February 9, 2005). Applicant respectfully disagrees. The motivation relied upon by the Office Action fails to consider how the system of Dubats could be reasonably modified based on the alleged teaching. The Office Action fails to provide a proper statement of motivation as to why one of ordinary skill in the art would severely modify Dubats that admittedly fails to show that the frequency of the satellite signals corresponds to a predetermined security condition. The Jang reference fails to teach the admitted deficiencies of Dubats. Further, there would be no motivation available to one of ordinary skill in the art at the time of the invention to combine the system of Dubats with Jang, absent improper hindsight.

As to claims 12, 14, 26 and 28, the Office Action admits that Dubats fails to disclose “selection means for selecting an active or inactive mode for the security system” and “means for

providing local response to detection of the intruder.” For these major deficiencies, the Office Action relies upon Dohrmann’s security system to teach the missing limitations. The Office Action summarily concludes that “it would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the device disclosed by Dohrmann to include selection means to set the security system in an active or inactive mode.” (see pages 17-18, Office Action mailed February 9, 2005). Applicant respectfully disagrees. The motivation relied upon by the Office Action fails to consider how the system of Dubats could be reasonably modified based on the alleged teaching. The Office Action fails to provide a proper statement of motivation as to why one of ordinary skill in the art would severely modify Dubats that admittedly fails to show that the active and inactive modes. In addition, the office Action fails to provide a proper statement of motivation as to why one of ordinary skill in the art would severely modify Dubats that admittedly fails to show a local response in the security system. The Dohrmann reference fails to teach the admitted deficiencies of Dubats. Further, there would be no motivation available to one of ordinary skill in the art at the time of the invention to combine the system of Dubats with Dohrmann, absent improper hindsight.

The Office Action has failed to set forth a *prima facie* case of obviousness for the claims. Specifically, when a primary reference is missing elements, the law of obviousness requires that the Office set forth some motivation why one of ordinary skill in the art would have been motivated to modify the primary reference in the exact manner proposed. *Ruiz v. A.B. Chance Co.*, 234 F.3d 654, 664 (Fed. Cir. 2000). In other words, there must be some recognition that the primary reference has a problem and that the proposed modification will solve that exact problem. All of this motivation must come from the teachings of the prior art to avoid impermissible hindsight looking back at the time of the invention.

In the present case, the Office Action’s sole justification for modifying Dubats has absolutely nothing to do with the deficiencies of Dubats. As admitted by the Office Action, Dubats fails to show the missing limitations as recited in claims 2-4, 9, 11, 12, 14, 16-18, 23, 25, 26, 28 and 30-32. The Office Action’s statement of motivation fails to consider how Dubats could be modified by the teachings of the applied references. To properly modify Dubats to correct for these major deficiencies, the Office has the burden to show some motivation why providing those elements would have overcome some perceived problem with Dubats. Any such motivation is completely lacking. This is a clear example of improper hindsight.

The mere fact that Dubats can be modified does not render the resultant modification obvious unless there is a suggestion or motivation found somewhere in the prior art regarding the desirability of the combination or modification. *See* M.P.E.P § 2143.01; *see also In re Mills*, 16 U.S.P.Q.2d 1430, 1432 (Fed. Cir. 1990); *In re Fritz*, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). In addition, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

In *In re Hedges*, 783, F.2d 1038, 1041, 228 U.S.P.Q. 685, 687, (Fed. Cir. 1986), the U.S. Court of Appeals for the Federal Circuit stated that "the prior art as a whole must be considered. The teachings are to be viewed as they would have been viewed by one of ordinary skill." The court also stated that "[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art'" (quoting *In re Wesslau*, 353 F.2d 238, 241, 147 U.S.P.Q. 391, 393 (CCPA, 1965)).

Therefore, the proposed combinations fail to show, teach or make obvious the invention as claimed by Applicants. The Office Action has failed to provide proper motivation for modifying Dubats. Even if the Dubats reference could be combined with the alleged admitted prior art as suggested by the Office Action, the resulting combination would fail to disclose the combination of claimed limitations. Therefore, the Office Action has failed to meet its burden. The rejection of the claims 2-4, 9, 11, 12, 14, 16-18, 23, 25, 26, 28 and 30-32 under 35 U.S.C. § 103(a) should be withdrawn and the claims allowed accordingly.

CONCLUSION

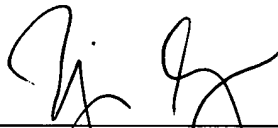
In view of the foregoing amendments and arguments, it is respectfully submitted that this application is now in condition for allowance. If the Examiner believes that prosecution and allowance of the application will be expedited through an interview, whether personal or telephonic, the Examiner is invited to telephone the undersigned with any suggestions leading to the favorable disposition of the application.

It is believed that no fees are due for filing this Response. However, the Director is hereby authorized to treat any current or future reply, requiring a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. Applicants also authorize the Director to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees, to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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